

REMARKS/ARGUMENTS

Claims 1, 7, 13, and 15 are amended; claim 12 is canceled; claim 16 is new; claims 1-11 and 13-16 are presently pending in this application, upon entry of the Amendment. Support for the Amendment can be found, for example, in paragraph [0023] of the Substitute Specification.

Examiner Interview:

A telephonic interview took place between Examiner Forrest M. Phillips and applicants' representative Christopher L. Willink on June 16, 2010. The prior art was discussed with regards to the pending claims and no conclusive agreement was reached. Applicants sincerely thank the Examiner for participating in the Interview.

Drawing Objections:

The drawings have been objected to for not allegedly showing every feature of the invention specified in the claims. The Office Action on page 2 recited that "the slightly larger outlet of the second muffler" must be shown or canceled from the claim.

This objection is improper as it refers to features not claimed. Claim 3 recites "the outlet **pipe** of the second muffler has an at least slightly larger diameter than the outlet **pipe** of the first muffler", rather than simply the "outlet" as recited by the Office Action.

An example of an outlet pipe of a second muffler is identified in the Substitute Specification in paragraph [0026] as outlet pipe 324, and shown in Fig. 3. Fig. 3 shows that outlet pipe 324 is approximately equal in diameter to the outlet portion of the rear muffler 300, where the arrows are shown. An example of the outlet pipe of a first muffler is identified in the Substitute Specification in paragraph [0025] as outlet pipe 224, and shown in Fig. 2. Fig. 2 shows that outlet pipe 224 is smaller in diameter than the outlet portion of the rear muffler 300, where the arrows are shown. Accordingly, one commonly skilled in the art would compare the figures as described by the Specification and recognize that outlet pipe 324 is slightly larger than

outlet pipe 224, as compared to the outlet portions which are shown to be the same size in both figures. Thus the objection is improper and should be withdrawn.

Claim Rejections:

Claims 1-3, 12-13, and 15 are rejected under 35 USC §103(a) as being unpatentable over DE19743446 ('446) in view of US6,938,729 to Worner. The rejection is respectfully traversed.

The references do not teach nor suggest, *inter alia*, "the first and second exhaust trains are guided over the whole length with a minimal cross-over position", as required by claim 1.

The Office Action recited that '446 does not disclose first and second cylinder banks but rather is applied to an inline engine, whereas US '729 discloses an exhaust system for a two-cylinder banked engine having a cross-over point and having two rear mufflers thereafter, which are divergent in position.

The claims regard an exhaust system having first and second exhaust trains guided separately over the whole length of the exhaust trains. That means, the exhaust system is made completely in double pass design, substantially without gas-exchanging cross-over positions. However, it has been found to be advantageous to provide one or more minimal cross-over positions to achieve a softer sound without any real gas exchange between the two exhaust trains. In this regard, applicants refer to paragraph [0023] of the Substitute Specification.

'446 is directed to an inline engine having only one exhaust train as confirmed by the Office Action. Worner is directed to a V-type engine having two cylinder banks and two exhaust trains. Between the two exhaust trains there is provided a cross-over point. The Office Action recited that this cross-over point does not provide significant gas exchange between the exhaust trains when valves 12 and 13 are both in the open position. This is however not correct.

Worner clearly indicates that the cross-over point is constituted by a mixing chamber 7. This mixing chamber is explicitly meant to provide for mixing of the exhaust gases in the two exhaust trains (column 4, lines 5-8). Further, Worner recites (column 3, lines 46-52)

that it is even important that the two exhaust gas pipe assemblies are connected to one another in a communicating fashion upstream of the two mufflers. As a consequence, Worner clearly does not recite a minimal cross-over position.

The Office Action might have been misled by the fact that the mixing chamber 7 of Worner may be realized in a third muffler 8 (see column 3, lines 53-57), and that also the minimal cross-over positions of the present invention could be realized in such a middle muffler. However, whereas the third muffler 8 of Worner has no separation between the two exhaust trains, the middle muffler 118 of the present invention clearly requires an internal separation between the two exhaust trains as indicated in paragraph [0023] of the Substitute Specification. As a consequence, unlike the exhaust system of Worner, the common middle muffler 118 of the present invention does not allow a real gas exchange between the two exhaust trains, but provides only for a minimal cross-over between the two exhaust trains to provide a softer sound.

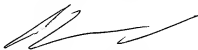
In light of the above, the rejected claims are patentable over '446 in view of Worner, and the rejection should be withdrawn.

CONCLUSION

In view of the foregoing, applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 576-0200.

Respectfully submitted,



Christopher L. Willink
Reg. No. 62,135

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
CLW:jhw

53655950-v1